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James Hambleton

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Constitutionalizing the Codes

By James Hambleton and Jim Paulsen

Are more than half of all this state's laws really unconstitutional? The answer, at least until Texas voters have a chance to vote on (and, it is to be hoped, pass) a constitutional amendment this November, is a firm "maybe."

The Texas Legislative Council has been proposing, and the Texas Legislature has been routinely approving, codes since 1967. Just last year, in fact, this program to codify all the statutory law of Texas passed the halfway mark, with adoption of the Election Code, the Government Code, and the Civil Practice and Remedies Code.

The legislation implementing each of these codes contains an identical proclamation: "This Act is enacted pursuant to Article III, Section 43, of the Texas Constitution." Oddly enough, though, the 69th Legislature not only passed these codes; it passed a joint resolution calling for a change in the very same Article III, Section 43. The purpose of this change is to specifically permit the Legislature to pass codes. But wait a minute. Is it really necessary to pass a constitutional amendment to authorize the Texas Legislature to do what it claims already to have done three times in the past session alone?

To find the answer to this burning legal research question, it is best to begin at the beginning. And, as is only appropriate in this year of the Texas sesquicentennial, the beginning begins in 1836. After all, it was in 1836 that the framers of the Constitution of the Republic included a provision requiring periodic revision of the civil and criminal statutes. Thus, the people of Texas expressed a basic precept of government: If Legislatures insist upon legislating, they should at least be required occasionally to tidy up the mess they make.

Similar commandments can be found in the Texas constitutions of 1845, 1861, and 1869, as well as in assorted statutes. Despite these numerous pronouncements of good intentions, however, the state Legislature never fully carried out a single revision as mandated. Instead, attorneys and the general public were forced largely to rely upon the efforts of private enterprise, represented by such free-lance compilers as Dallam, Hartley, and Paschal, to make sense out of the statutes.

The Texas Legislature came close to revising, indeed even codifying, the statutes of Texas in the mid-1850s. While a penal code and a code of criminal procedure were actually adopted, a proposed civil code was voted down. And so matters stood at the time of adoption of the Constitution of 1876.

Article III, Section 43 of that Constitution provided (and still provides, at least until November) that "[t]he first session of the Legislature under this Constitution shall provide for revising, digesting and publishing the laws, civil and criminal; and a like revision, digest and publication may be made every ten years thereafter...." This section produced the bulk revision of Texas statutes in 1879, 1895, 1911, and 1925.

Admittedly, revisions at intervals of 16, 16, and 14 years fell somewhat short of the 10-year constitutional goal. By any standard, however, these revisions were a vast improvement on previous efforts. The Constitution of 1876 contemplated nothing less than revision en masse, the entire reorganization of Texas statutes once a decade.

This was certainly no easy task. The last revisors, in a report to the Legislature, explained: "Since the adoption of the Revised Civil Code of 1911, 25 sessions of the Texas Legislature have created new laws and acted upon existing statutes by amending and repealing many of them... In many instances, articles overlap and contradict each other and in many cases, statutes have been repealed by implication and not directly."

Nonetheless, the 1925 report ended on an optimistic note. The revisors pointed out the fact that "[s]hort and snappy subjects have been adopted for the articles. This plan is of great assistance in finding what one is looking for." The general scheme of the revisors can still be seen by looking at Vernon's "Black Statutes." Statutes were (and where not codified, still are) organized alphabetically, beginning with "Accountants" and ending with "Wrecks," with topical entries like "Bees" and "Fences" sandwiched in between.

Why were there no comprehensive revisions after 1925? A good guess is that the demise of legislative revision was due to the introduction of the "pocket part" for statutes in 1926. After all, since a major purpose of legislative revision had been to gather together and reconcile changes made since the last major revision, much of this task could be accomplished by pocket parts produced after each session. Moreover, the fact that statutes and amendments could now be found with relative ease doubtless took some attorney-generated pressure for revision off the Legislature.

Is it really necessary to pass a constitutional amendment to authorize the Texas Legislature to do what it claims already to have done?

Whatever the reason, it was nearly 20 years before the next large-scale revisions of Texas statutes. When revision did come, in 1943, it was not in the form of a comprehensive overhaul of the entire corpus of legislation, but instead was targeted subject area legislation — the Texas Banking Code and the Texas Trust Act. Subsequent efforts included the Insurance Code and Election Code of 1951. All of these enactments could be viewed as "topical" or subject-specific revisions, rather than the bulk revision of statutes required by the Constitution.

It was perhaps inevitable, once the legislative approach to statutory revision had strayed so far from the comprehensive decennial rewriting contemplated by the Constitution, that someone would raise a constitutional challenge. That challenge came, and was dismissed, in the puzzling and unsatisfactory decision of *Ex Parte Jimenez*, 159 Tex. 183, 317 S.W.2d 189 (1958). Jimenez challenged a provision of the Election Code because, among other reasons, it violated the "caption" provision of Article III, Section 35 of the Texas Constitution.

This section states that no bill shall contain more than one subject, and that the subject of the bill must be expressed in its title or caption. The purpose of this section is to prevent log-rolling and to provide legislators and the general public with fair notice of the contents of any bill proposed. It would seem that any comprehensive code would have difficulty passing muster under this test. The Texas Supreme Court, however, had no trouble validating the Election Code.

The court admitted that the Election Code covered a great deal of territory, and had only a vague title.

"[L]ike the bride's wedding rainment, [the code's sections] almost necessarily include 'something old, something new, something borrowed, something blue.' In writing the caption, the authors pursued the sensible, if not the only possible, course, making it brief and general rather than extensive and particularized."

The court reasoned, however, that "[e]ven so, [the caption] ... is more elaborate than the caption of the similar and far larger enactment known as the Revised Civil Statutes of 1925..."

The problem with the Supreme Court's reasoning is obvious. The Revised Civil Statutes of 1925, passed as a single act with a simple title, would probably have been invalid if judged by the criteria of Section 35. The court, however, failed to note that Section 43, the same section of the Constitution that mandated statutory revision every ten years, also specifically exempted those revisions from the requirements of Section 35. The majority of the court, then, was mistaken in assuming that the Revised Civil Statutes of 1925 passed muster under the caption provision; rather, they were never required to comply.

In 1963, the Texas Legislative Council was given authority to "plan and execute a permanent statutory revision program for the systematic and continuous study of the statutes of this state and for the formal revision of the statutes on a topical or code basis." The stated purpose of the program was "to clarify and simplify the statutes and to make the statutes more accessible, understandable, and usable." Beginning with the Business and Commerce Code in 1967, the Legislative Council has since succeeded in codifying a substantial percentage of Texas law.

While this program is, without doubt, one of the best things that has ever happened to the statutory law of Texas, it is a long way from the process originally envisioned by the Constitution. While the Constitution contemplates a comprehensive bulk revision at set 10-year intervals, the Legislative Council is empowered to offer topical and limited revisions, with no set time schedule.

So far as the authors can tell, the constitutionality of a code enacted as part of the state's current comprehensive revision program has never been tested. The possibility, though, offers interesting food for thought to anyone with an appetite for whimsey. In the most closely analogous case, *Jimenez*, the Supreme Court majority held that since "any sort of 'code' necessarily involves many different kinds of individual provisions, none of these ... will violate the 'one subject' restriction, if it has any logical relationship to the general subject."

Even if this statement were not premised on a mistaken assumption about the statutory revision of 1925, some interesting questions would be raised if the *Jimenez* standard were applied to the current project to codify all Texas law under 26 titles. Take the Civil Practice and Remedies Code, for instance. Even the title sounds like the code has more than one subject. If a court were to become curious, any review of the legislative history would make it even harder to maintain the fiction that the entire code encompasses only "one subject," as required by the Constitution. The third revisor's report on the code, for example, explains:

The Civil Practice and Remedies Code is a nonsubstantive revision of the Texas statutes relating to civil procedure and civil remedies and liabilities. Because of the wide range of subjects that the council staff determined should be included

in the code, the source law for the code is not compiled in Vernon's Texas Civil Statutes as a single group of statutes.

(Emphasis, of course, is the authors').

Indeed, the Civil Practice and Remedies Code is a little too broad-ranging to be considered as including only a single subject. The prohibition on firing a person for serving on a jury just *might* be considered to be either a civil practice or a remedy. But what about the appointment of receivers for defunct churches or the statutory age of majority?

As another example, the Natural Resources Code's caption indicates that it codified statutes relating to "the public domain, oil, gas, and other natural resources." Yet, Title 9 of that code deals with "heritage," and establishes the Antiquities Committee. The committee is concerned primarily with protecting and preserving man-made objects, such as shipwrecks and Indian dwellings. It is difficult to imagine anyone persuasive enough to explain how "natural" can come to include "artificial" (although, one must admit, television commercials make the attempt on a fairly regular basis).

Likewise, the Human Resources Code contains a caption indicating that it relates to programs and services for "needy persons, children, and handicapped persons." The "caption" provision of Article III, Section 35, requires that the bill's subject be expressed in the caption. Title 6 of the code, however, sets up the Governor's Committee on Aging. But the aged are not, at least not universally, needy or handicapped, and they certainly are not children.

Examples could be multiplied, but to no purpose. After all, if one provision of one code was struck down on this ground, then all provisions of all codes would be vulnerable. This would necessarily be a rather drastic move on the part of the state Supreme Court. And, no matter what one thinks about the strength of the Texas Supreme Court's commitment to a strict construction of the Texas Constitution, it is difficult to see that body rendering a decision that would invalidate all statutes governing the judiciary in Texas, including those authorizing salaries for court personnel. (These provisions were just rewritten and included in the new Texas Government Code.)

At the end, then, we are left with the same question with which this article began: "Are more than half of all this state's laws really unconstitutional?" The last Legislature has sent conflicting signals. On one hand, a constitutional amendment to authorize codification and to retroactively validate laws already passed without sufficient titles certainly seems to indicate that the Legislature is afraid of *something*. On the other hand, specific statements in all three codes passed in the last session loudly proclaim the current constitutional basis for codification.

It is said that "[t]he wicked flee when no man pursueth; but the righteous are bold as a lion." The Texas Legislature has fled to the ballot boxes to validate the codes, but has simultaneously made a bold pronouncement of its power to pass these same codes. Perhaps, with any luck, the amendment will pass quietly this November, and attorneys in this state will never have the chance to find out whether half of our statutes really were unconstitutional.

James Hambleton is director of the State Law Library in Austin and Jim Paulsen is an associate in the Houston law firm of Liddell, Sapp & Zivley.

Local Bar Associations

Bar Leaders Conference Set For August 15-17

The State Bar Committee on Assistance to Local Bar Associations and Law Week has scheduled the 1986 Bar Leaders Conference for Aug. 15-17, at the South Padre Hilton in Corpus Christi.

Local bar presidents, presidents-elect, and TYLA affiliate presidents are invited to attend and bring their families for this fun-filled, educational weekend retreat.

Last year's conference had nearly 200 participants. The total attendance was estimated at 450 persons, which included family members.

This year's conference is expected to be much larger. Therefore, the committee has announced the dates early in order for those planning to attend to have plenty of time to arrange a mini-vacation around those dates.

The program is being prepared by the committee, and will include speakers, discussion groups (allowing bar associations of similar size to discuss problems and goals) and a family dinner on the beach.

The South Padre area abounds with recreational possibilities. Also, you are only minutes away from shopping the colorful marketplaces of historic Old Mexico and Brownsville.

For more information on the conference, contact Barbara Earle, P.O. Box 12487, Austin 78711; or call 512/463-1515.

The Fort Worth ABOTA Chapter Elects New Officers for 1986

Members of the Fort Worth Chapter of the American Board of Trial Advocates elected the following officers to serve in 1986: James B. Barlow, president; James W. Jameson, vice president; Richard N. Haskell, secretary; and, Estil A. Vance, Jr., treasurer.

The American Board of Trial Advocates is a professional organization dedicated to promoting the art of advocacy and the efficient administration of justice.

The Fort Worth ABOTA chapter has approximately 24 members.

Litigation Update

The State Bar of Texas and the San Antonio Bar Association sponsored a Litigation Update at the Four Seasons Hotel, Feb. 7-8 in San Antonio.

Co-sponsored by the State Bar's Litigation Section, the seminar focused on key areas about litigation, with the faculty giving both plaintiff's and defendant's perspectives.

Points covered in the seminar were a venue update, summary judgment update, commercial litigation update, legal malpractice, testimonial ethics, civil lawyers in criminal cases, Supreme Court update, special issues update, legislative update, and legal sufficiency and the case in chief.

Participants received 8.50 hours of credit toward continuing legal education requirements of the College of the State Bar of Texas.

Dallas Association of Law Librarians

John Cone, an associate with the Dallas law firm of Hubbard, Thurman, Turner & Tucker, discussed trademark law during the January 1986 meeting of the Dallas Association of Law Librarians (DALL) held Jan. 8, at the Belo Mansion.

Cone commented also on the differences in working in Britain and in working in the United States.

The DALL meetings are held the second Wednesday of every month.

The DALL Technology Section meetings are scheduled for the last Wednesday of every month. The location for the meetings is Westlaw office, 11th Floor, Thanksgiving Tower.

The January section meeting featured speaker Carolyn Grimes who discussed local area networks and how law firms can use them.

Bench Brunch Honors Women In Texas Judiciary

The Bexar County Women's Bar Association sponsored their Third Annual Bench Brunch at the Bright Shawl in San Antonio honoring women in the judiciary in Texas. Justices and judges from throughout the state attended the function in their honor.

Among the local honorees in attendance were Judge Shirley W. Butts of the 4th Court of Appeals of San Antonio; Judge Carol R. Haberman of the 45th Judicial District Court; Judge Carolyn Spears of the 224th Judicial District Court; Judge Bonnie Reed, County Court at Law No. 9; and municipal court judges: Judge Frankie G. Boyd, Judge Barbara Kay Brame, Judge Barbara Evans-Cordts, Judge Leticia A. Luna, and Judge Irene Canales de Janssen, justice of the peace.

A special program included recognition of the honorees in attendance by Bench Brunch chairperson, Shirley Ehrlich, followed by remarks by Secretary of State Myra McDaniel.

Also, during the Bench Brunch, recipients of the First Annual Belvah Lockwood Outstanding Lawyer and Outstanding Young Lawyer awards were announced.

The purpose of the awards is to recognize those individuals who have made significant contributions to the improvement of the status of women in the law and to their community.

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Named as the Belvah Lockwood Outstanding Young Lawyer was Denise Martinez, assistant criminal district attorney and prosecutor in County Court No. 7.

Formerly chief of the Domestic Relations and Domestic Violence Units of the Bexar County District Attorney's office, Martinez was responsible for handling all civil and criminal spouse abuse cases and all criminal non-support cases.

Martinez has participated in statewide and local training of law enforcement personnel, social services agency personnel, and personnel in the district attorney's office regarding spouse abuse cases.

Currently, she is an executive board member of the Texas Department of Human Resources Family Violence Program Advisory Committee, the Bexar County District Attorney's Task Force on Child Abuse, the Bexar County Child Support Formula Committee, and the Bexar County District Attorney's Task Force on Domestic Violence.

Receiving the Belvah Lockwood Outstanding Lawyer award was Peggy Y. Butler.

Butler is a member of the board of directors of the Women's Employment Network, Pro Bono Law Project, Mexican-American Bar Association, and San Antonio Young Lawyers Association, and was a founding member of the Bexar County Women's Bar Association.

She is state director, seminar leader, and lecturer for the Women in the Law Section of the State Bar of Texas.

Butler was also an assistant criminal district attorney and chief of the Child Abuse and Neglect Section of the Bexar County District Attorney's office prior to becoming chief of the Family Services Section of the Bexar County Legal Aid Association.

The BCWBA board of directors named the outstanding lawyer awards in recognition of Belvah Lockwood, a successful Washington, D.C., attorney who received her law degree and was admitted to the Washington Bar Association in 1873 despite much outside resistance. Lockwood was prominent in temperance, peace and women's suffrage movements.

Houston Bar Association

The Houston Bar Association honored its 50-year members, as well as presented an exhibit of artifacts from the state's legal past during the Texas Legal History Luncheon, held Feb. 28, at the Meridien Hotel in Houston.

More than 140 HBA members who have practiced law 50 years or more were the special guests of the HBA and were recognized with commemorative certificates.

To celebrate Texas' sesquicentennial, the HBA presented noted author T.R. Fehrenbach as the luncheon's keynote speaker. A weekly columnist for the *San Antonio News-Express* and the author of 17 non-fiction books, Fehrenbach has published recently, *Texas: A Salute from Above*, a collection of aerial photographs and comments on the vast geographical and human resources of the state.

In conjunction with the luncheon, the HBA exhibited historical legal documents, photographs, and artifacts from Texas, as well as Harris County.

Good leaders take more than their share of the blame and less than their share of the credit.

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R.J. Allen



Robert J. Allen, 91, of Lubbock died Nov. 6, 1985.

A native of Joplin, MO, Allen attended the University of Colorado and Colorado A&M University. He received his LL.B. from the University of Denver Westminster Law School in 1931 and was admitted to the Texas Bar the

same year.

During World War I, Allen joined the U.S. Army in 1917 as a private in field artillery. He served with the 89th Division in France and participated in the Battle of St. Mihiel-Metz Offensive. He was discharged in 1919 a second lieutenant.

After the armistice, Allen served with the occupation forces. In 1932, Allen opened a private practice in Lubbock which he maintained until 1937.

Allen served as Lubbock County Attorney from 1938 to 1942 and Lubbock County judge of the court-at-law from 1952 to 1963. He practiced law from 1942 until 1952.

Allen was a member of the Lubbock County Bar Association and the Texas Bar Association. He was former president of the Kiwanis Club in Lubbock, former commander of both the American Legion Post and Veterans of Foreign Wars in Lubbock, and a member of the Masons and Phi Kappa Psi Fraternity.

Allen was a member of an Episcopal church in Lubbock, serving as senior warden for several years.

Survivors include two sons, Richard J. Allen and Stephen D. Allen; a brother, Colorado attorney Frank D. Allen; eight grandchildren; and five great-grandchildren.

Allen's grandson, Robert M. Allen is a Dallas attorney.

Acknowledgements may be sent to (grandson) Robert T. Allen, 6413 Carey Dr., Austin 78757.

W.S. Banks

William Skidmore Banks, 89, of Houston died June 9, 1985.

A native of Temple, Banks received his LL.B. from the University of Texas. He was admitted to the Texas Bar in 1920.

During World War I, Banks served in the U.S. Army as an infantry captain. He remained active in the First Officers' Training Camp Association in San Antonio.

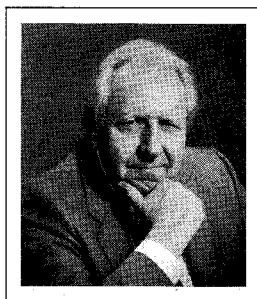
Banks moved to Houston in 1934 where he spent 10 years with the Federal Land Bank. In 1944, he joined the Houston law firm of Vinson & Elkins. Twenty-seven years later he retired from practice.

Banks was a member of the Houston Bar Association and the State Bar of Texas. Also, Banks was a 32nd degree Mason and a member of the Kappa Alpha social fraternity.

He was a member of the St. Luke's United Methodist Church in Houston where he served on the Congregation Administrative Board and the Board of Stewards.

Survivors include his wife, Frances Bass Banks, 2321 Westcreek, No. 74G, Houston, 77027; a son, Dr. William S. Banks III of Houston; a daughter, Mimi Banks Thobae of Houston; two sisters, Mrs. Lewis T. Tarver and Mrs. Arthur E. Collier, both of Temple; and four granddaughters.

L.Z. Finger



Leonard Zindler Finger, 70, of Houston died Jan. 28, 1986.

A native of Raleigh, NC, Finger attended Fairmont State Teachers College in West Virginia from 1933 to 1936 and received his LL.B. from West Virginia University in 1939 and was admitted to the West Virginia Bar the same year.

Finger was admitted to the Texas Bar in 1940.

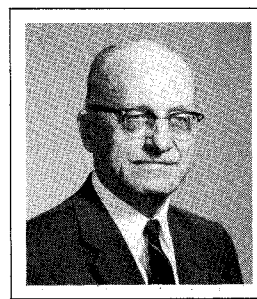
Shortly after establishing his private practice in Houston, Finger joined the U.S. Army in 1941 and he served for four years as an attorney in Cuba and Puerto Rico. By the end of the War, Finger had been promoted to major.

Following WWII, Finger practiced law for two years in Clarksburg, WV before returning to Houston and establishing the law firm of Finger, Small, Cohen & Forlano in 1947. Finger was a senior partner in the firm at the time of his death.

Listed in Who's Who in America, Finger was a member of the State Bar of Texas and the Jewish Temple Beth Israel in Houston.

Survivors include his wife, Marilyn Ring Finger, 3008 University Blvd., Houston 77005; a son, Leonard Z. Finger Jr. of New York, NY; two daughters, Joyce R. Finger and Carolyn S. Finger, both of Houston; and a brother, Arthur I. Finger in Victoria, British Columbia.

H. Dow



Harry Dow, 85, of Houston died Jan. 12, 1985.

A native of Luptz, Russia, Dow attended Rice University and the University of Texas Law School. He was a member of the Student Army Training Corps at UT and the Chancellors Honorary Law Fraternity at the UT law school.

Dow was admitted to the Texas Bar in 1921.

During World War II, Dow served as a Selective Service System Government Appeals agent.

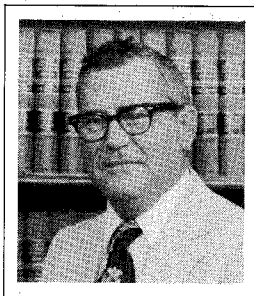
Founder of the Houston law firm of Dow, Cogburn & Friedman, Dow began practicing law in 1921.

A member of the American Bar Association, the State Bar of Texas, and the Houston Bar Association, Dow was a fellow of the Texas Bar Foundation, a member of the American Judicature Society, and the American College of Probate Counsel.

A 33rd degree Mason, Dow was a member of the Holland Masonic Lodge No. 1 AF&AM and the Arabia Temple Shrine, a former vice president of the Congregation Beth Yeshurun in Houston, a former president of the Houston district Zionist Organization of America, and a former president of the Herzl B'nai B'rith Lodge.

Survivors include his wife, Lily Dow, 15 Greenway Plaza, No. 8F, Houston 77046; two sons, attorney Melvin A. Dow and attorney Bernard O. Dow, both of Houston; a daughter, Frances R. Friedman of Houston; and 11 grandchildren.

Son-in-law Abraham P. Friedman of Houston is an attorney.



J.H. Ammerman

Former Harrison County Judge James Harry Ammerman, 58, of Jefferson died Nov. 27, 1985, after a lengthy illness.

A native of Wewoka, OK, Ammerman earned an A.A. from Del Mar Junior College in Corpus Christi in 1950, a B.A. from the University of Texas in 1954, and

his LL.B. from the University of Texas School of Law in 1956. While attending UT, he was a member of Phi Beta Kappa and served as student editor of the Texas Law Review.

Ammerman was admitted to the Texas Bar in 1956.

During World War II, Ammerman volunteered in 1945 for the U.S. Army as an infantryman. A year later, he graduated a second lieutenant from the Officer's Candidate School at Ft. Benning, GA and joined the 88th Infantry Division in Northern Italy, serving in the Army of Occupation.

After WWII, Ammerman joined the U.S. Army Reserve. During the Korean War, he was called to active duty in 1950 as a member of a line rifle company.

During his military career, Ammerman was awarded the Silver Star, two Bronze Stars for valor, the Combat Infantryman's Badge, the Purple Heart, and several other service and campaign ribbons.

He retired from the U.S. Army as a colonel.

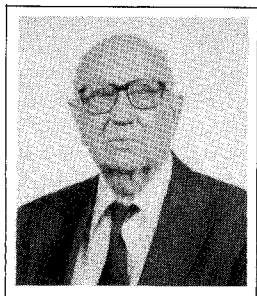
Before moving to Marshall in 1964, Ammerman practiced law in Galveston and Odessa. He was associated with the Marshall law firm of Jones, Jones & Baldwin from 1964 to 1967. In 1967, Ammerman went into private practice which he maintained until 1972.

In 1972, he joined the law firm of Ray, Grant, Kirkpatrick, Ammerman & Dennis. Ammerman returned to private practice in 1975.

Ammerman served as Harrison County judge from 1967 to 1972. He was a member of the Harrison County Bar Association, the Northeast Texas Bar Association, and the Texas Trial Lawyers Association.

A member of the Marshall Masonic Lodge No. 22, Ammerman was a 32nd degree Mason and a Shriner. He was a charter member of the Good Shepherd Lutheran Church in Marshall.

Survivors include his wife, Dolores Jean Ammerman, P.O. Box 549, Jefferson 75657; two sons, Jim Ammerman II and Edward Ammerman; and, a daughter, Kathy Ammerman Horner.



J.A. Sharp

Joe Alexander Sharp, 77, of Plainview died Sept. 24, 1985.

A Plainview native, Sharp attended Wayland Baptist College in Plainview, West Texas State University in Canyon, Texas Tech University in Lubbock, and Cumberland College in Lebanon, TN. He received his LL.B. in 1929 from

Cumberland College and was admitted to the Texas Bar in 1930.

Following graduation, Sharp returned to Plainview and joined Meade F. Griffin in the practice of law. Three years later, Sharp was elected Hale County attorney and two years later, he became an assistant to the Texas Attorney General. He served in the State Attorney General's office from 1935 to 1939 and again in 1942.

During World War II, Sharp served in the U.S. Army in Europe. After the War, he remained active in the U.S. Army Reserve, retiring in 1968 as a lieutenant colonel.

Sharp was elected district attorney of the 64th Judicial District in 1949. In 1955, he became a partner in the Plainview law firm of Morehead, Sharp, Tisdell & Boyd where he remained until his death.

Also, Sharp served as Plainview City attorney from 1954 until 1977.

Sharp was a member and former president of the Hale County Bar Association, a 50-year member of the State Bar of Texas, a member of the American Bar Association and a member of the Texas Association of Defense Counsel.

A 32nd degree Mason, he was a member of the Plainview Masonic Lodge and the Scottish Rite.

Sharp was a member of the First United Methodist Church in Plainview.

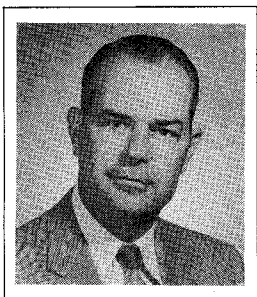
Survivors include a daughter, Pernicia Lou Sharp Drake of Alamogordo, NM; a brother, S.R. "Pockets" Heard of Plainview; a sister, Mrs. Floyd "Ginger" Ellison of Plainview; five grandchildren; and two great-grandchildren.

Acknowledgments can be sent to the family, Law Offices of Morehead, Sharp, Tisdell & Boyd, 621 Baltimore, Plainview 79072.

In Memoriam

These notices are published immediately after reports of death are received. Memorials will be published later.

ALLEN, BRUCE, Waxahachie, Feb. 4, 1986
 ATKINSON, EDWARD S., JR., Houston, Dec. 31, 1985
 BAASS, ALFRED C., Victoria, Nov. 30, 1985
 CAMPBELL, ISAAC ANDREW, JR., Hamilton, Dec. 3, 1985
 CLARK, DICK R., Rusk, TX, Feb. 2, 1986
 DAVIS, RUTH LOVETT, Dallas, Dec. 25, 1985
 EDWARDS, JOSEPH E., Houston, Jan. 15, 1986
 FITZJARRALD, J.O., Amarillo, Jan. 30, 1986
 JACKS, TERRY L., San Marcos, Dec. 7, 1985
 JENSEN, THOMAS E., Houston, Jan. 3, 1986
 JOHNSTON, ROYCE C., Kingsville, Nov. 13, 1985
 MAHON, GEORGE H., Colorado City, November 1985
 McALEE, JAMES R., Washington, D.C., Dec. 28, 1985
 O'KEEFE, BARRY J., Houston, Aug. 3, 1985
 PERRY, WILLIAM H., JR., Dallas, Dec. 19, 1985
 SCHULZE, R. PHILIP, JR., Beverly Hills, CA, Dec. 3, 1985
 SMITH, JEROME M., Austin, Dec. 28, 1985
 THANHOUSER, LLOYD F., Huntsville, Jan. 11, 1986
 TREADWAY, GEORGE J., Houston, Oct. 28, 1985
 WATSON, DEANE C., SR., Canyon, Oct. 25, 1985
 WHITE, WYNDHAM K., El Paso, Dec. 22, 1985
 WILSON, R.A., JR., Amarillo, Jan. 4, 1986
 WOLF, DANIEL, St. Louis, MO, Dec. 30, 1985



C. Brown

Clyde Brown, 71, of Long Beach, MS, died March 3, 1985.

A native of Hanna, LA, Brown earned a B.A. from Northwestern State University in Natchitoches, LA in 1935 and his J.D. from South Texas College of Law in Houston in 1961. He attended Loyola University School of Law in New

Orleans, LA in 1963.

Brown was admitted to the Texas Bar in 1962, the Louisiana State Bar in 1964, and the Mississippi State Bar in 1979.

During World War II, Brown served as a technical sergeant with the U.S. Army in England from 1942 to 1945.

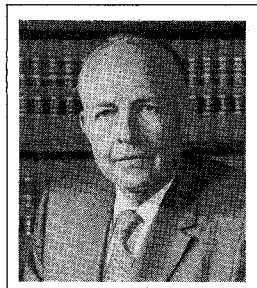
In 1937, Brown joined the Continental Oil Company in Houston and stayed with the company until 1978.

From 1962 to 1963, he served as the company's senior staff engineer. In 1963, he began a six-year term as the regional conservation coordinator for Conoco's Louisiana offshore operations. In 1969, Brown became the company's director of conservation, a position he kept until 1978.

Brown was a former director of the Society of Petroleum Engineers, a former legal subcommittee chairman of the Clean Atlantic Association, a member of the legal advisory board of the American Petroleum Institute, a member of the Offshore Operators legal subcommittee and executive subcommittee, a member of the Alaska Subarctic Offshore drilling and production committee, and a member of the legal committees of the New Mexico Oil & Gas Association and the Mid-Continent Oil & Gas Association.

Brown was a member of the Long Beach Presbyterian Church in Mississippi.

Survivors include his wife, Amy Johansen Brown, 410 South Burke Ave., Long Beach, MS 39560; two sons, Maj. Frederick William Brown of Alexandria, VA, and attorney James Michael Brown of Laurel, MS; two sisters, Miss Clara Brown and Mrs. Matsie McDonald, both of Shreveport, LA; and a brother, Edgar Perkins Brown of Pollock Pines, CA.



W.J. Craig

Former State Representative William Jenkins Craig, 69, of Austin died Aug. 28, 1985.

A native of Gainesville, Craig attended Amarillo Junior College, Texas Tech University and the University of Texas where he graduated with a B.B.A. in 1941. He received his LL.B. from the Uni-

versity of Texas School of Law in 1952 and was admitted to the Texas Bar the same year.

During World War II, Craig was a lieutenant in the U.S. Navy, serving on a minesweeper in the Atlantic during the Normandy Invasion. He was awarded the American Area Campaign Ribbon, the World War II Victory Ribbon, and the European-African Area Campaign Ribbon with two stars.

Following WWII, Craig represented the 124th District in the Texas House of Representatives from 1946 to 1952.

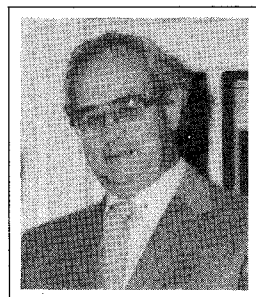
Craig moved to Pampa, TX in 1953, where he became associated with Curtis Douglas. In 1954, he was elected Pampa City judge. After five years as a city judge, Craig was elected Gray County judge, an office he held until 1966.

In 1967, Craig began his one-year term as assistant attorney general.

Craig was a member of the Gray County Bar Association, State Bar of Texas, the Miami, TX Masonic Lodge, the Lions Club, a life member of the International Fraternity of Delta Sigma Pi, and a former commander of the Gray County Veterans of Foreign Wars. Also, he volunteered to serve as the Gray County probation and parole officer and juvenile judge.

He was a member of the First Christian Church in Pampa where he served as an elder.

Survivors include his wife, Betty Berry Craig, 4106 Cat Hollow Dr., Austin 78731; three sons, William Berry Craig of West Germany, Richard Nolan Craig and Steven Clark Craig, both of Alaska; two daughters, Carla Susan Barnes and Leslee Clair Wright, both of Austin; his mother, Mrs. Vernie J. Craig of Austin; and five grandsons.



E.B. Fuller

Edwin B. Fuller, 61, of Austin died Dec. 27, 1985 after a lengthy illness.

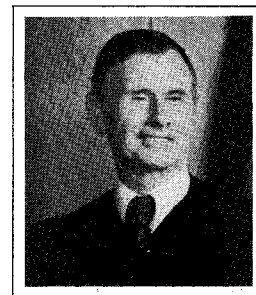
A native of Fort Stockton, TX, Fuller served in the U.S. Army as a court reporter with the Headquarters Judge Advocate General in Patton's Third Army during World War II.

After WWII, Fuller returned to Texas and worked as an insurance adjuster while earning his LL.B. from the University of Texas School of Law. He graduated from law school and was admitted to the Texas Bar in 1951.

Following graduation, Fuller opened a private law practice in Austin which he maintained for 24 years. In 1975, he joined the General Counsel of the Texas Department of Health in Austin as a hearing examiner. Shortly before his death, Fuller retired from that position.

Fuller was a member of the Texas Trial Lawyers Association, the National Rifle Association, the Les Amir De Vin Society, and the Junior Chamber of Commerce.

Survivors include his wife, Sharon Marie Fuller, 1510 W. North Loop, Austin 78751; a son, Shane Eric Fuller of Austin; a daughter, Shannon Elizabeth Fuller of Austin; a brother, Jerome E. Fuller Jr. of Harlingen; and two sisters, Christine Copenhaver of El Cajon, CA, and Margaret Nurmi of Ironwood, MI.



C. Cole

Former Texas Senator and District Judge Criss Cole, 67, of Houston died June 21, 1985.

A native of Sawyer, OK, Cole graduated a legal stenographer from Houston Business College in 1947, attended the University of St. Thomas and the University of Houston where he received a B.S.

in 1953. He received his LL.B. from the University of Houston School of Law in 1954 and was admitted to the Texas Bar the same year.

During World War II, Cole served as a corporal in the U.S. Marine Corps. After serving 20 months in the Civilian Conservation Corps in Denver, CO in 1940, Cole spent two and a half years fighting in Iceland, the South Pacific, and the Central Pacific.

In 1943, Cole was blinded by a hand grenade while fighting the Japanese forces on the Gilbert Islands. Later that year, the late Adm. Chester Nimitz awarded Cole the Purple Heart.

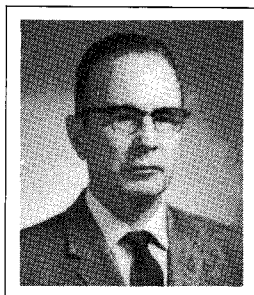
Following WWII, Cole moved to Houston where he practiced law from 1954 to 1971. In 1971, Gov. Preston Smith appointed Cole to the newly-created Harris County Juvenile Court No. 3. In 1977, that court was designated as the 315th District Court.

Cole served in the Texas Legislature as a representative from 1955 to 1962 and as a senator representing Harris County from 1963 to 1970. While a state legislator, Cole was instrumental in passing bills to establish Padre Island National Seashore, the Institute of Texan Cultures in San Antonio, and anti-discrimination policies by state and local governments.

A member of the Houston Bar Association and the State Bar of Texas, Cole was the honorary state chairman of the Houston branch of the Society to Prevent Blindness, as well as worked with numerous veteran and handicapped rehabilitation organizations. In 1969, the Legislature voted to name the state's rehabilitation center for the blind in his honor.

Cole was a member of the All Saints Catholic Church in Houston.

Survivors include his wife, Joanne Cole, 6131 Hurst St., Houston 77008; two sons, Dennis Cole in Austin and attorney Warren Cole in Houston; four brothers, Charles Cole, Jack Cole, Carrol Cole and Gene Cole; two sisters, Virgie Faye Murphy and Frances Ballew; and five granddaughters.



A.H. Fraser

Alexander Herbemont Fraser, 75, of San Antonio died Aug. 22, 1985.

A San Antonio native, Fraser was the great-great-grandson of John W. Smith, the last messenger from the Alamo, and a descendant of the Canary Islanders.

Fraser attended Virginia Military Institute in Lexington, VA, the University of Texas in Austin, and Westmoreland College (now Trinity University) in San Antonio. He was admitted to the Texas Bar in 1933.

During World War II, Fraser served as a second lieutenant in the U.S. Army Military Police in Washington D.C. He was promoted to first lieutenant at the end of WWII and was awarded the Good Conduct Medal. Following the War, Fraser served in the 112th Armored Cavalry Regiment of the Texas National Guard as a major.

Fraser had opened a law practice in San Antonio in 1933 which he returned to after the War and maintained until his death.

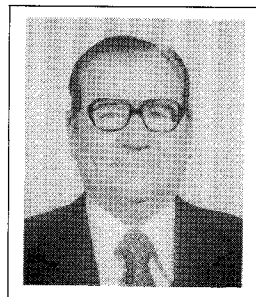
Fraser was a member of the San Antonio Bar Association, a 50-year member of the State Bar of Texas, and a member of the legal counsel of the Order of the Sons of Hermann in the State of Texas. Also, Fraser served a legal counsel for the Daughters of the Republic of Texas.

With a great interest in early Texas history, Fraser was a former president general of the Sons of the Republic of Texas, a knight commander of the Knights of San Jacinto, a former president of the San Antonio chapter of the Sons of the American Revolution, a former governor of the General Society of Colonial Wars in the State of Texas, a former chairman of the Bexar County Historical Survey Commission, a former president of the San Antonio Historical Society, and a former president of the Scottish Society of San Antonio.

Also, Fraser was an organizer and past commander of the Alamo Camp and the Sons of the Confederate Veterans, as well as a member of the Hereditary Order of Descendants of Colonial Governors, Somerset Chapter and Magna Charta Barons.

Fraser was a lifelong member of St. Mark's Episcopal Church in San Antonio.

Survivors include his wife, Clara Kennedy Fraser, 146 Davis Court, San Antonio 78209; a son, Charles Kennedy Fraser of Brownsville; two daughters, Houston attorney Dr. Clara Jane Fraser and Joan Fraser Gaedke of New Braunfels; and four grandchildren.



B.L. Hutchinson

Former Justice of the 6th District Court of Appeals Bunyan "Bun" Lee Hutchinson, 66, of Texarkana died Nov. 30, 1985.

Hutchinson had retired June 30, 1985, after serving nearly seven years on the 6th District Court bench. Before his election to the appeals court, Hutchinson served

as the 5th Judicial District judge presiding over Bowie and Cass counties.

A native of DeKalb, Hutchinson attended Magnolia A&M College in Magnolia, AR and received his LL.B. from the University of Texas School of Law where he was a quiz master, senior class president, and a member of the Order of the Coif. He graduated in the top five percent of his class.

He was admitted to the Texas Bar in 1942.

During World War II, Hutchinson served in the U.S. Army as a chief clerk and technical sergeant with the Army General Headquarters under Gen. Douglas McArthur in the Southeast Pacific.

Shortly before WWII, Hutchinson was in private practice in Texarkana. Following the War, he served as Bowie County attorney from 1946 to 1952, and district attorney of Bowie County from 1952 to 1956.

From 1957 to 1958, Hutchinson was judge of the 102nd Judicial District, presiding over Bowie and Red River counties. In 1958, he returned to private practice with the Texarkana law firm of Atchley, Russell & Hutchinson (now Atchley, Russell, Wal-drop & Hlavinka).

In 1973, Hutchinson was appointed, then elected, to the 5th District Court bench. He was elected to the 6th District Court of Appeals in 1978.

Survivors include his wife, Merry B. Hutchinson, 37 DeSoto Circle, Texarkana 75503; two daughters, Merry Nan Denard of Lewisville and Alice Lee Kurihara of Arlington; a brother; two sisters; and two grandsons.

P.A. Kazen

Philip A. Kazen Sr., 78, of Laredo died Nov. 13, 1985.

A native of Laredo, Kazen was the son of Lebanese immigrants who later became a prominent South Texas family. He worked his way through the University of Texas School of Law by shining shoes and throwing newspapers. In 1930, he received his LL.B. and was admitted to the Texas Bar.

Following graduation, Kazen practiced law in Laredo and was elected in 1938 as district attorney for the 49th Judicial District. In 1942, Kazen resigned as district attorney to enter U.S. Government service during World War II.

During World War II, Kazen served as a special representative of the U.S. Board of Economic Administration and as an assistant with the General Counsel of the U.S. Board of Economic Warfare in Washington D.C. Also, he was a special assistant to the Ambassador of Bolivia in charge of the procurement of strategic war materials.

Before WWII, Kazen served as a member of the coordinating committee for Mexico in the U.S. Office of InterAmerican Affairs in Washington D.C. In 1939, he was recognized as Laredo Man of the Year for settling differences between Mexico and the United States.

After the War, Kazen returned to Laredo where he continued his law practice, as well as remained active in political and community affairs.

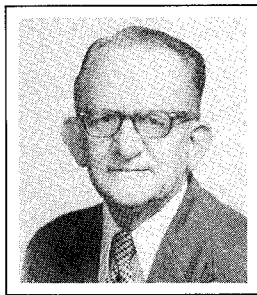
Kazen organized, incorporated, and served as a charter member and former president of the Boys' Clubs of Laredo; organized the Border Olympics in Laredo; organized and served as the first president of the Laredo Housing Authority; and organized and served as legal adviser of the Laredo Police Officers Association.

Also, Kazen served as a president of the Laredo Bar Association and the Free Citizens League of Laredo, director of the Laredo Legal Aid Society; and a member of the Governor's Committee on Human Relations of the State of Texas.

Kazen was decorated by the governments of Mexico, Bolivia and the Republic of Lebanon for promoting friendly relations between the people of those countries and the U.S. Also, he received the St. Thomas Moore Award from St. Mary's University in 1974 for his assistance in the building of the school's law center; was recognized by the Laredo Bar Association in 1980 for 50 years in the legal profession; was inducted into the Laredo Boys' Club Hall of Fame in 1984; and received the Merit Award from the Laredo Police Officers Association.

Survivors include his wife, Marie K. Kazen, 2210 Lane, Laredo 78040; two sons, Philip A. Kazen Jr. and Vincent John Kazen, both of Laredo; a daughter, Amyra Lee Kazen of Laredo; and two brothers, former district attorney and, former 49th Judicial District Court Judge E. James Kazen of Austin and former Texas legislator and U.S. Rep. Abraham Kazen, Jr. of Laredo.

Kazen's nephew is U.S. District (Southern Texas District) Judge George P. Kazen of Laredo.



A.P. Stephens

Artie P. Stephens, 75, of Sulphur Springs died May 10, 1985.

A native of Sulphur Springs, Stephens attended East Texas State Teachers College, then taught school for one year in Hopkins County.

After teaching for a year, Stephens enrolled in the Dallas Night Law School sponsored by Southern Methodist University. He completed five years of study while working as a stenographer and law clerk.

Stephens was admitted to the Texas Bar in 1935.

Following his admission to the Texas Bar, Stephens practiced law with Emmett Thornton in Sulphur Springs. In 1938, Stephens was elected Hopkins County attorney — a position he held for 16 years.

During World War II, Stephens left his position as county attorney for Hopkins County to serve in the U.S. Navy. After the War, he returned to Texas to serve as assistant attorney general with then Attorney General Price Daniel.

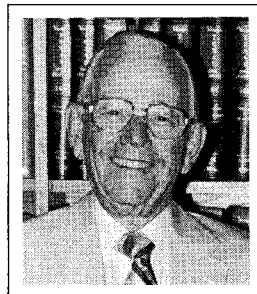
Following three years as assistant attorney general, Stephens returned to Hopkins County and opened a private law practice. He retired in 1981.

A member of the State Bar of Texas, Stephens joined the Northeast Texas Bar Association, as well as the Hopkins County Bar Association. He was past president of the Hopkins County Bar Association.

Also, he was a member of the Sulphur Springs Masonic Lodge 222, AF & AM, the Veterans of Foreign Wars, and the Sulphur Springs City Council.

He was a member of the First Baptist Church in Sulphur Springs.

Survivors include his wife, Velma Lamb Stephens, 110 North Davis St., P.O. Box 381, Sulphur Springs 75482; a daughter, Mary Ann Neeley of Mesquite; four sisters, Clara Waits, Ruth Hoffman, and Georgia Manning, all of Sulphur Springs, and Mattie Lou Hanna of Phoenix, AZ; and, two grandchildren.



G.R. Wynne

Gordon Russell Wynne, 81, of Wills Point died Dec. 18, 1985 following a lengthy illness.

A Wills Point native, Wynne was a member of the Wills Point law firm of Wynne & Wynne which was founded in 1882 by his father, William Benjamin Wynne.

He joined the firm in 1927, after receiving his LL.B. from the University of Texas School of Law in Austin.

Wynne was admitted to the Texas Bar in 1927.

Wynne served on the State Bar of Texas Board of Directors, as well as the board of directors of the First National Bank of Wills Point. Also, he was president of the White Rose Cemetery Association.

Wynne had been a member of Russell Memorial United Methodist Church since boyhood and served on its administrative board for many years. He taught the Gordon Wynne Men's Bible Class for more than 50 years and was a charter member of the Lakeview Board of Assembly in Palestine since its inception in 1953.

Wynne received an honorary degree from Jarvis Christian College at Hawkins in 1981 and was named as the "Outstanding Citizen of Van Zandt County" in 1985.

Survivors include his wife, Charlotte Johnson Wynne, Law Offices of Wynne & Wynne, 137 West James, Wills Point 75169; a son, attorney Gordon R. Wynne Jr. of Wills Point; a daughter, Charlotte "Sissy" Thompson of Dallas; a brother, attorney Buck J. Wynne of Wills Point; two sisters, Mrs. E.R.L. Wroe of Austin and Mrs. Jack T. Life of Athens; and seven granddaughters.

E.D. Garrett

Edward Doyle Garrett, 83, of Waco died Nov. 11, 1985.

A native of Limestone County, Garrett attended the University of Texas and Baylor University. He received his LL.B. and was admitted to the Texas Bar in 1935.

Following graduation, Garrett entered law practice in Waco with his brother Barney Garrett. Moving to Dallas, he joined the legal staff of Pioneer Savings. Later, he became a partner and legal counsel with Lone Star Drive-in Theaters in Dallas.

Garrett returned to Waco in 1957 and resumed his law practice.

Garrett was a member of the Waco-McLennan County Bar Association and a 50-year member of the State Bar of Texas. Also, he was a Mason in the Baylor Lodge No. 1235 AF&AM, a Shriner, and a member of the Karem Temple.

Garrett was a member and former Sunday school teacher of the First Baptist Church in Waco.

Survivors include his wife, Blanchard P. Garrett, 7316 Brentwood Circle, Waco 76710; and three sisters, Alpha Miller of Waco, Beulah Bullock of Dallas, and Mrs. Forest Harper of Odessa.

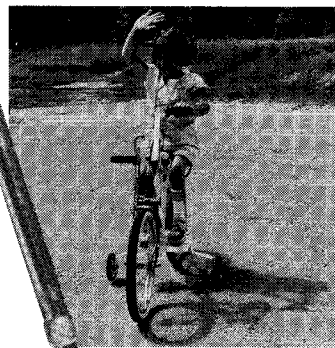
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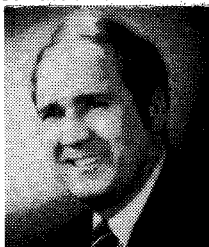
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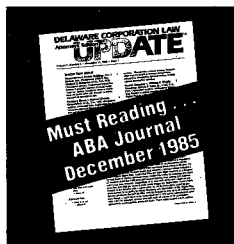
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Medium-sized downtown Fort Worth law firm has immediate opening for litigation associate with one to two years' trial experience. Excellent academic credentials required. Send resume in confidence to Box-holder 6234.

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ATTORNEY OPPORTUNITIES — HOUSTON: Bankruptcy Partner (no clients needed), \$300K. Corp/Sec Partner (w/clients), \$300K. General Tax (w/clients), \$250K. Litigation, \$250K. PI/PL Merger opportunity. Bond/Municipal finance Partner (w/clients), \$300K. Other partners to \$250K. ASSOCIATE, Litigation (1-5 years), \$50-75K. Bankruptcy (2-4 years) \$55-75K. Real Estate (mixed bag, 3-5 years) to \$75K. PI (four plus years), \$150K. ERISA (Benefits planning), \$50K. Corp/Securities (two to four years), \$50-65K. Banking (one to six years), to \$80K. Bankruptcy (one to six years), \$80K. DALLAS: Bankruptcy Partner (no clients needed), \$300K. Litigation Partner (w/clients), \$250K. ASSOCIATE Litigation (one to five years), \$50-75K. Real Estate/Oil and Gas/Corp (one to five years), \$50-75K. ERISA (two plus years) to \$55K. AUSTIN: ASSOCIATE Litigation (one to four years) \$40-60K. Real Estate/Copr Securities/Banking (two to five years), \$45-65K. Contact Barbara Dixon, Vice President, Interview Legal Search, 2525 North Loop West #304, Houston 77008, 713/864-9898.

Medium-sized AV-rated Houston law firm located in the Galleria seeks at least three attorneys to fill positions in the areas of real estate, business litigation, and the tax/corporate area, respectively. All should have one to five years' experience. Hiring immediately. The firm shall also consider merger possibilities with experienced practitioners who have same amount of practice in the same areas. Send resume to Box-holder 6035.

ATTORNEY WANTED

CORPORATE STAFF ATTORNEY. Major precious metals mining company headquartered in Houston, seeks attorney with one to three years' experience in natural resource and general corporate law. Competitive salary and exceptional benefits. Send resume to Box-holder 6246.

Large, progressive downtown Dallas law firm seeks bankruptcy attorneys with one to 10 years' experience. Excellent academic credentials required. Send resume in confidence to Box-holder 6247.

A national insurer has an immediate opening for a litigation attorney in our Dallas staff attorney's office. Applicant must have a minimum of two years' experience in the litigation of personal injury and workers' compensation lawsuits. Liberal benefits program available. Interested parties, send resume to Box-holder 6250.

Small AV-rated Dallas firm has an immediate opening for an associate position in the areas of real estate and civil litigation for an experienced or inexperienced attorney. The applicant must have an excellent academic record. Please send resume in confidence to: St. Claire & Case Attorneys, Frank St. Claire or Tom Case, 5944 Luther Lane, Suite 601, Dallas 75225.

ATTORNEYS NEEDED — Outstanding career opportunities in most areas of practice (bankruptcy, tax, commercial litigation, PI, insurance defense, etc.) for attorneys with two to five years' experience and top academic credentials. Positions available in Texas and throughout the U.S. Send resume or contact us for confidential discussion of your career move. Fees paid by employer. NATIONAL LEGAL SEARCH, INC., P.O. Box 60276, Houston 77205. Call 713/358-2600.

Twelve-lawyer AV-rated downtown Dallas law firm seeks TAX ATTORNEY with three or more years' experience. Send resume in confidence to Box-holder 6251.

JENNINGS, DIES & TURNER, A Professional Corporation, seeks an associate with rigorous standards of integrity and work quality and high professional aspirations to engage in general civil practice with emphasis on oil and gas and business litigation. Experience (up to 10 years) in a similar practice is preferred but not essential. Interested attorneys should furnish a resume, recent photograph and sample evidencing writing skills to Frank Jennings, P.O. Drawer 930, Graham 76046.

Savings & Loan In-house Counsel needed. Three to five years' experience in real estate, consumer and commercial lending, including familiarity with foreclosure and related bankruptcy concepts. Familiarity with S & L regulations desirable. Attractive compensation and benefit package. Inquiries kept confidential. Send resume in confidence to Box-holder 6252.

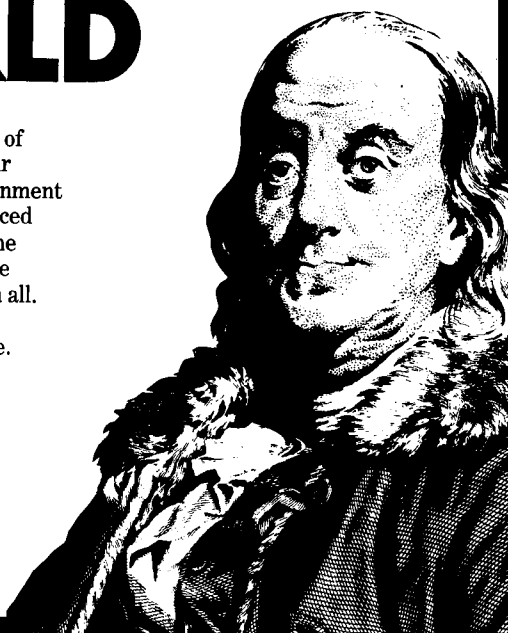
DALLAS: Personal injury attorney with rapidly growing practice concentrating on complex and technical litigation in the areas of products liability, aviation and negligence has opening for independent, organized and highly motivated individual with one to three years' civil litigation or judicial clerking experience. Send resume to 12810 Hillcrest Road, Suite 221, Dallas 75230.

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ATTORNEY WANTED

AV-rated business litigation firm in Austin seeks trial attorney with at least two years' business litigation experience (including first chair and jury trial). The firm prefers applicants who have not been licensed for more than five years. The firm requires a strong commitment to quality, high ethics, and a satisfactory academic record. The position provides substantial client contact, strong staff support, opportunity for professional development, a voice in management, and a pleasant work environment. The clientele is primarily small to mid-sized businesses and businesspeople. All replies confidential. Respond to Box-holder 6237.

Established six-man AV-rated East Texas general practice firm with heavy emphasis in litigation seeks trial attorney with three to five years' experience. All inquiries confidential. Send resume, photograph, writing sample and salary requirements to Box-holder 6241.

AUSTIN, AV-rated, 30-person firm seeks two highly motivated and experienced attorneys for its real estate and tax practices. Applicants must have two to five years' experience with sound academic credentials. Excellent salaries and career opportunities in a growing law practice. Send resume and references to Box-holder 6242.

TAX ATTORNEY WANTED. Major downtown San Antonio law firm seeks tax attorney with in excess of five years' experience, to practice in areas of business tax, including corporate reorganizations, syndications and private placements. Compensation based upon qualifications and experience. All inquiries confidential. Send resume to Box-holder 6239.

ATTORNEY WANTED

UNUSUAL OPPORTUNITY; Small suburban Houston firm with quality practice seeks proven associate with five years' broad Texas general business/commercial practice experience and high academic credentials; ultimate partnership potential to replace principal nearing retirement. Reply in confidence to Box-holder 6253.

ATTORNEY WANTED: Prominent Oklahoma City law firm seeks highly motivated attorneys with one to two years' experience in banking, real estate, oil and gas and commercial litigation, including bankruptcy. Superior academic credentials and excellent writing abilities are required. Admission to Oklahoma Bar preferred. Salary commensurate with experience and background. Send resume, law school transcript and writing sample to Box-holder 6243.

Medium-sized AV-rated Central Texas firm needs a trial attorney with two to three years' experience, assume immediate case responsibility, compensation commensurate with experience. Send resume, transcript, references, and salary expectations to Box-holder 6211.

DEATON, BRIGGS & MCCAIN of Houston seeks two attorneys with one to three years' litigation experience for insurance and business litigation sections. Additionally, two attorneys with one to two years' experience in bankruptcy matters including commercial litigation experience. Compensation based upon qualifications and experience. Replies are confidential. Send resumes and references to Michael W. McCoy, 9055 Katy Freeway, Suite 300, Houston 77024.

ATTORNEY WANTED

Expanding 60-attorney, AV-rated Dallas law firm seeks attorneys with zero to 10 years' experience in one of the following areas: bankruptcy, corporate/securities, litigation, banking and tax. Excellent academic and/or work history required. Reply in confidence to Box-holder 6245.

Solo practitioner in downtown Austin seeks lawyer with some experience to share existing quality litigation practice. Applicant should be motivated to build boutique firm specializing in business and real estate litigation. Send resume to Box-holder 6248. Strict confidence assured.

Employment Opportunity — Attorney with three years' minimum experience, preferred in area of utility company law. Salary and fringes negotiable. Send resume to Mr. Arturo Ramirez, General Manager, P.O. Box 250, Progreso 78579.

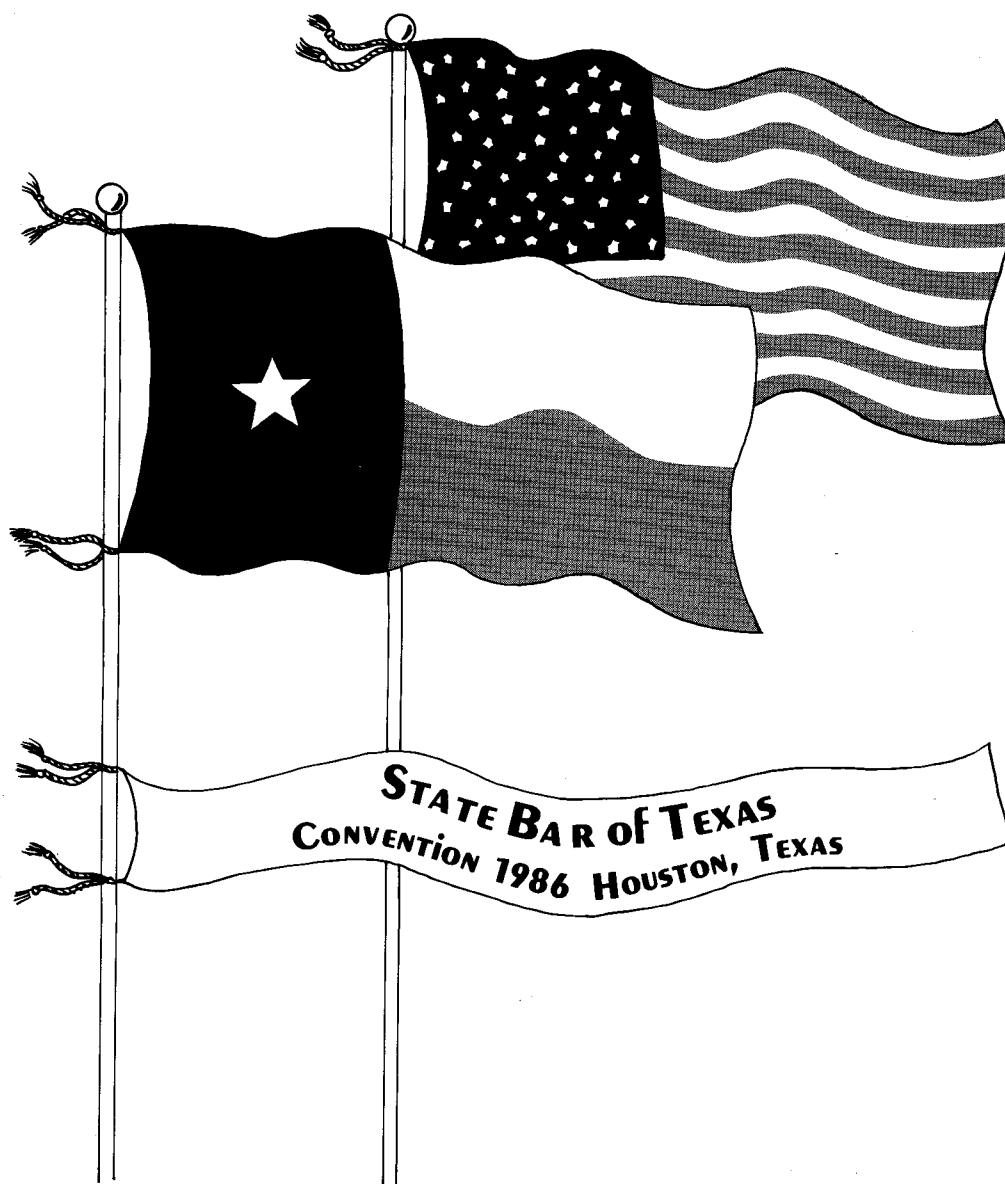
AUSTIN — Aggressive, growth-oriented, national law firm seeks partners and associates for its Austin office. Candidates must have existing clientele and ability to attract additional clientele. Excellent salary and unlimited potential. Send resume to Box-holder 6235.

ASSISTANT FEDERAL PUBLIC DEFENDER for the Western District of Texas, positions in San Antonio and El Paso. See 18 USC & 3006A. Must be bilingual (in Spanish), and be licensed for at least one year. Federal criminal trial experience preferred. Resume and Standard Form 171 to Lucien B. Campbell, Federal Public Defender, 727 E. Durango Blvd., B-138, San Antonio 78206.

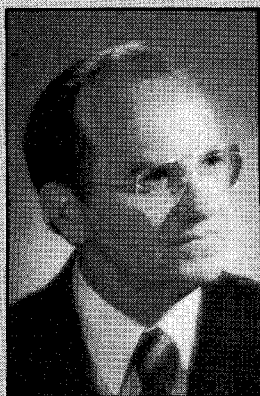
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HOUSTON, TEXAS



Everybody Has A Deposition Story

By Jerry Buchmeyer

The return of the expose: *How to Take A Deposition!* It was inevitable, of course. Every trial lawyer has a deposition story. And now many of them — willing to subject themselves to the glare of public ridicule¹ in order to further *your* Somewhat Continuing Legal Education (SW/CLE)² — have stepped forward. In this, our Time of Dire Need, they have sent me even more examples to support the fundamental premise of the deposition expose: anyone can (and will) tell you "how" to take a deposition, but few will warn you about What May Happen when you dare to depose. So ...

Do the preliminary stuff first

Joe Wolfe, of Sherman, made this rather torturous attempt to "lay the ground rules" at the deposition of a very agreeable witness:

Q. Mr. Malone, I want to ask you some questions concerning any information that you might be able to give us that would have a bearing on the lawsuit. If there are any questions asked that you don't understand, would you say so? Say yes or no?

A. Yes or no.

Q. I know you want to be agreeable, Mr. Malone, but what I meant was if you could answer, *give us a verbal response to questions*. And when I asked you if you would let us know if we ask you a question that you don't understand, *I want you to tell us* that you will let us know.

A. All right.

Q. Will you do that?

A. (Witness nods head up and down.)

Q. Give me a 'yes.'

A. Yes.

.....

Q. Do you know what will happen to you if you don't tell the truth?

A. Yes, sir.

Q. What happens to little boys like you that don't tell the truth?

A. They be dead ...

.....

Q. Would you just tell me what happened?

A. Well, I wouldn't want this to go any further ...

.....

REPORTER: I can't hear you. You're mumbling.

WITNESS: What difference does it make? I'm not talking to you.

Q. Would you please hand your driver's license to the reporter?

A. The reporter, who is he?

Q. That is Mr. von Sternberg, here.

A. What's he doing here?

What is he doing here?

Jerry von Sternberg is back! Well, actually, his book is.³ von Sternberg's *"I Solemnly Swear"* (Carlton Press 1978) has at last been reprinted (Eakin Press 1985). This hilarious book — which was the source of most of the stories in my previous deposition columns — collects many more Strange Things that Jerry actually recorded during his years as a court reporter in Houston.

So, for those of you who asked before, you can now get your very own copy of *"I Solemnly Swear."* The address of Eakin Press is P.O. Box 23066, Austin, TX 78735 — but Jerry hopes you get your local bookstore to order the book for you (so your friends can buy it, too).

Clear up any possible confusion

Mary Louise Gilman, Editor of the *National Shorthand Reporter*, 4 sent me this "confusing" item from her July 1985 issue:

Q. Just by its very nature, weren't they purchasing older cattle, cattle that were inebriated and had other different problems with them?

A. No.

Q. Where the older cattle that were being bought for cow kills more susceptible to disease, more inebriated than the cows you could find in a fat cow kill?

A. No.

REPORTER: Is that the word: 'inebriated'?

MR. SMITH: That's true.

MR. JONES: Emaciated.

MR. SMITH: Emaciated?

WITNESS: Inebriated? I think you confused attorneys with cows there when you were talking about inebriated.

.....

Gerald Benson of Dallas (Tobolowsky, Prager & Schlinger) contributes this exchange from the two-page deposition of the custodian of business records for the American Board of

Obstetrics and Gynecology:

- Q. Are the copies submitted exact duplicates of the originals which you are keeping?
- A. No. We're not keeping originals. There are no originals. I said there's a microfiche. These are copies from a microfiche. The originals are long gone.
- Q. Do you know where the originals are?
- A. They're in space. Hell, no. I don't know where the originals are.
- Q. Would you please give these copies to me to be attached to the deposition?
-

Jerome Levy of Dallas, another habitual collector of legal humor, found this "clarification" reported in the *Los Angeles Times*:

- Q. Does Mr. Brown frequent that general locale with regularity?
- A. What?
- Q. Well, does Jerry hang around the pool hall a lot?

What was the nature of your relationship?

From a deposition taken by Bill Harriger of Lubbock (McClesky, Harriger):

- Q. How long has that relationship continued?
- A. A couple of years.
- Q. Okay, were you seeing Mr. Palondo at the time this accident happened?
- A. Mrs. Palondo, yes.
- Q. In other words, would she be familiar with your physical condition and that sort of thing at the time of the accident?

- A. Well, no, no, she can't be familiar with me.
- Q. Okay.
- A. I didn't see her that — I can't see her that soon — I mean that many times.
-

Joseph Jacobson of Dallas shares this exchange in a deposition of the husband in a bitterly contested divorce suit (taken by Thomas Mulligan of the Jones, Day "mother office" in Cleveland):

- Q. Isn't it a fact that you have been running around with another woman?
- A. Yes, it is, but you can't prove it!
-

- Q. Did you ever stay all night with this man in New York?
- A. I refuse to answer that question.
- Q. Did you ever stay all night with this man in Chicago?
- A. I refuse to answer that question.
- Q. Did you ever stay all night with this man in Miami?
- A. No.
-

- Q. Isn't it true that on the night of June 11th, in a prune orchard at such and such a location, you had relations with Mr. Blank on the back of his motorcycle?

(There was a complete silence for about three minutes; then the wife replied.)

- A. What was that date again?
-

- Q. What was the nature of your acquaintance?
- A. Oh, there wasn't no nature to it, nothing like that, at all. No nature to it. We were just friends, that's all.

How did the accident happen?

This comes from a case involving a refinery explosion in Louisiana; the deponent was a worker who had managed to escape injuries in the blast:

- Q. How did you get away from the blast without being harmed?
- A. When I heard the first rumble, I started running.
- Q. Then you must have been running awfully fast.
- A. I wouldn't say that.
- Q. Well, just how fast were you running.
- A. About medium.
- Q. Medium? What do you mean by medium?
- A. Well, I was passing some, and some was passing me.

[... to be continued ...]

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1. Almost every person who sent me a deposition story carefully explained that it had really happened to *another* lawyer. Of course, we all believe that — just as we are all hoping to find a bridge for sale in the vicinity of Brooklyn.
2. The time spent in contributing stories to this deposition series, or in reading them, may be credited against your mandatory CLE requirements. Or, it may not.
3. *Jerry von Sternberg* never really left. How could he (?) after a very difficult deposition witness — who had given Jerry a fit for three hours, "swallowing his words concerning a very technical subject" — told Jerry during the recess: "I bet piano players would make great reporters."
4. Two books published by the National Shorthand Reporters Association (118 Park Street, S.E., Vienna, VA 22180) — *Humor in the Court* (1977) and *More Humor in the Court* (1984) — were also the source of many of the deposition stories in this series.

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